IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE C.V.RAMULU

Writ Petition Nos.22969 of 1999, 11464 of 2000, 15338 of 2001, 11091 of 2001, 26182 of 2000, 21304 of 2001 and 2338 of 2002

WRIT PETITION NO : 22969 of 1999

Between:

M.Ramabhadra Rao S/o.Narayana Murthy
Special Judicial Magistrate of First Class, Excise Court, Hyderabad.

..... PETITIONER

AND

1 The Govt. of A.P Rep. by its Secretary, Legislative Affairs and Justice Law (LA&J Courts) Department, Secretariat, Hyderabad.
2 The Director Medical Education A.P, Koti, Hyderabad.
3 The High Court of A.P Rep. by its Registrar (Administration),

High Court buildings, Hyderabad. A.P.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the second respondent in restricting the medical bill in respect of the cardiac surgery of petitioner's wife to Rs.40,000 vide his letter in LDAs No.13394/MAC/99, dt.04-06-1999, as illegal, and against the spirit of A.P. Integrated Medical Attendance Rules,1972 and Art.21 of the Constitution of the India and declaring that the petitioner is entitled to full reimbursement of Rs.1,23,406, after deducting the amount of Rs.40,000 already paid and the petitioner further consequently prays that respondents to forthwith pay him, an amount of Rs.83,406, towards the reimbursement of the expenditure he incurred in connection with his wife's coronary Angioplasty operation on 26-12-1998 and pass such other order or orders.

Counsel for the Petitioner: MR.N.GURUGOPAL & S.R.SANKU

Counsel for the Respondent No.3: SMT.M.BHASKARA LAKSHMI (SC FOR APHC) , F& P, Home.

Counsel for respond3ent Nos.1 and 2: GP FOR M & H

WRIT PETITION NO : 11464 of 2000

Between:

T.Ramachandra Reddy, S/o Ranga Reddy
District and Sessions Judge, Grade –I, Director of Prosecutions,

R/o Qrt. No.D4 , Senior Civil Judges , Residential Quarters ,
West Maredpally, Secunderabad.

..... PETITIONER

AND

1 State of A.P rep by its Prl. Secretary ,
Health , Medical & Family Welfare (K-1) Department , Secretariat ,
Hyderabad.
2 State of A.P rep by its Secretary ,
Law (LA & J - CTS .C) Department , Secretariat ,
Hyderabad.
3 State of A.P rep by its Director
Medical Education , Govt. of A.P ,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order, more in nature of the Writ of Mandamus, declaring the action of the government /respondents in restricting the claim of the petitioner for reimbursement of medical expense at Rs.50000/-in terms of G.O Ms.no.184HM & FW (K1) department dt 02-04-92 and a further cut of 20% in terms of G.O Ms.No. 175 HM & FW (K1) department dt 29-5-1997 as arbitrary, discriminatory, unjustified, unconstitutional and consequently direct the respondents to reimburse all the medical expenses incurred by the petitioner at Rs.1,39,960.50/-

Counsel for the Petitioner: M/s H.SRINIVASA RAO&VIJAYALAKSHMI

Counsel for the Respondent No.: GP FOR HOME, GP for M & H AND gp for F & P for respondent Nos.1 to 3

WRIT PETITION NO : 15338 of 2001

Between:

B.A.Prakasa Rao S/o.Janardhana Rao,

Senior Civil Judge, Nuzvid, Krishna District

..... PETITIONER

AND

1 The Government of the State of Andhra Pradesh rep. by its

Secretary, Legislative Affairs and Justice, Law (LA & J Courts)

Department, Secretariat, Hyderabad
2 The Director, Medical Education, Andhra Pradesh
Koti, Hyderabad
3 The High Court of Andhra Pradesh rep. by its Registrar

(Administration)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions more particularly one in the nature of mandamus or any other appropriate writ, declaring the action of the second respondent in restricting the Medical Bill, in respect of the Coronary Artery Bypass Graft Surgery of the petitioner to Rs.60,000/- vide his letter in L.Dis.No.16036/MAA, Dt.19/04/2001 as illegal and against the spirit of the A.P. Integrated Medical Attendance Rules, 1972 and under Article 14 and 21 of the Constitution of India and declaring that the petitioner is entitled to the full reimbursement of Rs.1,60,090/- and the petitioner further consequently prays that this Hon'ble Court may be pleased to direct the 1st and 2nd respondents to forthwith pay the petitioner an amount of Rs.1,00,090/- (Rupees One Lakh and Ninety Rupees Only) towards the reimbursement of the expenditure he incurred in connection with his Coronary Artery Bypass Graft Surgery, he underwent at City Cardiac Research Centre, Vijayawada, during the period from 29/06/2000 to 12/07/2000 , after deducting the amount of Rs.60,000/- already paid, and pass such other order.

Counsel for the Petitioner: MR.N.GURUGOPAL & S.R.SANKU

Counsel for the Respondent No.: SMT.M.BHASKARA LAKSHMI (SC FOR APHC) for R3

GP for M & H : GP for F & P for respondent Nos.1 and 2

WRIT PETITION NO : 11091 of 2001

Between:

Mohd. Nurullah Ghori, S/o Md. Ibrahim Ghori,

Special Judicial First Class Magistrate for Excise,

Hyderabad.

..... PETITIONER

AND

1. The Govt. of the State of Andhra Pradesh,

   Rep. By its Secretary, Legislative Affairs and Justice,

   Law (LA&J) Courts) Department,

   Secretariat, Hyderabad.

2. The Director, Medical Education,

   Andhra Pradesh, Koti, Hyderabad.

3. The High Court of Andhra Pradesh

   Rep. by its Registrar (Administration),

   Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the action of the second respondent in restricting the medical bill in respect of the cardiac surgery of petitioner to Rs.60,000/- vide his letter in Dis No. 3664/MAB/2000, dt. 28-03-2001, as illegal, and against the spirit of A.P. Integrated Medical Attendance Rules, 1972 and Article 21 of the Constitution of India and declaring that the petitioner is entitled to full reimbursement of Rs.1,19,000/- after deducting the amount of Rs.60,000/- already paid and the petitioner further consequentially prays that this Hon'ble Court may be pleased to direct the first and second respondents to forthwith pay him, an amount of Rs.59,000/-, towards the reimbursement of the expenditure he incurred in connection with his *Unstable Angina and Coronary Angioplasty,* at the Appolo Hospital, Hyderabad during the period from 9-10-2000 to 16-10-2000 and pass such other or further orders.

Counsel for the Petitioner: MR.N.GURUGOPAL & S.R.SANKU

Counsel for the Respondent No.: SMT.M.BHASKARA LAKSHMI (SC FOR

APHC) for R3; GP for F & P; Gpfor M & H for respondent Nos.1 and 2

WRIT PETITION NO : 26182 of 2000

Between:

A.Rajaiah, S/o.venkaiah, Presently Working IV Addl. Metropolitan Sessions Judge, Hyderabad . R/o Hyderabad.

..... PETITIONER

AND

1 Govt. of A.P. rep by its Chief Secretary,
Secretariat , Hyderabad.
2 Govt. of A.P. Rep by its Secretary,
Law (LA & J-CTS.C) Dept , Secretariat, Hyderabad.
3 Govt. of A.P Rep by its Prl. Secretary,
Health Medical and Family Welfare (K-1) Secretariat ,

Hyderabad.
4 Govt. of A.P Rep by its Director of Medical Education,
Hyderabad.
5 High Court of A.P Rep by its Registrar (Administration),
High Court Buildings , Hyderabad , A.P.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus , declaring the action of the Govt / respondents in restricting the claim of the petitioner for reimbursement of Medical expenses at Rs.50,000/- in terms of G.O.Ms.No.184 HM & FW(K-1) Department Dt: 02-04-1992 and a further cut of 20% in terms of G.O.Ms.No.175 HM & FW (K-1) Department Dt: 29-05-1997 as arbitrary, discriminatory, unjustified, unconstitutional and consequently direct the respondents to reimburse all the medical expenses incurred by the petitioner at Rs.40,371/- and pass such other order or orders.

Counsel for the Petitioner: M/s H.SRINIVASA RAO&VIJAYALAKSHMI

Counsel for the Respondent No.: SMT.M.BHASKARA LAKSHMI (SC FOR APHC) for R5; GP for M & H and GP for M & H for respondent 1 to 4

WRIT PETITION NO : 21304 of 2001

Between:

Y.Venkateswara Rao, S/o late Y.Pattabhi Ramayya,

R/o HIG II Phase, B-13, F-11, Baghlingampalli, Hyderabad.

..... PETITIONER

AND

1 State of A.P. rep, by its Prl. Secretary,
Health, Medical & F.W(K1) Department,
Secretariat Hyderabad
2 Secretary , Sate of A.P Law (L.A & J.Cts. C) Department
Secretariat, Hyderabad.
3 Director, Medical Education, Government of A.P., Hyderabad.
4 State of AP represented by Chief Secretary, State of A.P Secretariat, Hyderabad.
5 Registrar (Admn), High Court of A.P, Hyderabad
6 State of AP, Secretary, Finance & Planning Department
Government of A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction more particularly one in the nature of writ of mandamus declaring the action of the Government/ Respondents in not reimbrusing the full medical expenditure and restricting the petitioners claim for reimbursement of medical expenses at Rs. 50,000 as arbitrary and unjustified and subsequently direct the Respondents to reimburse the full admissible expenditure incurred by the petitioner at Rs. 1,20,380/- by quashing the second Respondent's letter No.399, dated 4/0/2001 and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner: M/s H.SRINIVASA RAO & VIJAYALAKSHMI for R5; GP for F & P & GP for M & H for RR 1 to 4 & 6.

Counsel for the Respondent No.: SMT.M.BHASKARA LAKSHMI (SC FOR APHC)

WRIT PETITION NO : 2338 of 2002

Between:

S.Ramakrishna Reddy, S/o Rami Reddy,

District Judge Grade-II, P.O.Labour Court-II,

Hyderabad.

..... PETITIONER

AND

1. State of A.P., rep. By its Prl. Secretary, Health,

Medical & Family Welfare (K-I) Department,

Secretariat, Hyderabad.

2. State of A.P., rep. By its Secretary, Law (LA&J – CTS.C)

Department, Secretariat, Hyderabad.

3. Director, Medical Education,

Government of A.P., Hyderabad.

4. State of A.P., rep. by its Secretary,

Finance & Planning Department,

Secretariat, Hyderabad.

5. Registrar (Administration),

High Court of A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or direction (i) declaring the action of the 3rd respondent in restricting the reimbursable amount to the petitioner at Rs.60,000/- as arbitrary, unjust with a consequential direction to the respondents to reimburse the balance amount of Rs.91,587/- and set aside the order of the 3rd respondent dt.10.11.2000 and to (ii) quash G.O.Ms.No.161, Health, Medical & Family Welfare (KI) Department, dt.5.5.2000 to the extent of restricting the maximum reimbursable amount restricting to Rs.75,000/- as arbitrary and illegal and pass such other order or orders.

Counsel for the Petitioner: M/s H.SRINIVASA RAO &b VIJAYALAKSHMI for R5; GP for F &P and GP for M & H for RR 1 to 4

Counsel for the Respondent No.: SMT.M.BHASKARA LAKSHMI

The Court made the following COMMON ORDER:

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

These seven writ petitions have been filed by the Members of Higher Judicial Service and subordinate judiciary questioning the action of the respondents in restricting their medical claim for reimbursement in respect of the medical expenses

actually incurred by them as illegal, arbitrary, discriminatory and irrational and have prayed that the entire amount of medical expenses incurred by them be ordered to be reimbursed.

2. Instead of narrating facts of each case we are referring the facts as are disclosed in Writ Petition No. 21304 of 2001. The petitioner in the said writ petition is a retired District Judge and at the relevant time was working as President, District Consumer Forum-II, Hyderabad. He retired from service on 31.8.1997 as the Chairman of Sales Tax Appellate Tribunal and admittedly is governed by the A.P. Integrated Medical Attendance Rules, 1972 and also the All India Services (Medical Attendance) Rules, 1954. His wife on 7.9.1999 complained of severe chest pain. In view of the critical and emergent situation she had to be admitted in Care Hospital, Hyderabad on the same day. The Care Hospital is a super specialty hospital for heart ailments and is also recognized as a referral hospital by the Government of Andhra Pradesh. By G.O.Ms.No. 175, Health, Medical and Family Welfare Department, dated 29.5.1997, the Government has permitted both serving and retired employees as also their dependants to secure treatment in private hospitals recognized in the Government Orders. However, 20% cut is imposed on eligible amount after getting the bills scrutinized by the Director of Medical Education, Hyderabad, in case treatment is obtained without a prior reference.

3. The petitioner alleged that his wife underwent treatment for Sclero degenerative heart disease and had permanent pace maker implantation as a life saving measure. She was discharged on 15.9.1999. The petitioner incurred an expense of Rs. 1,23,380/- towards the cost of pace maker, hospitalization charges, etc. Necessary bills, receipts, essentiality certificate etc., were duly submitted through letter dated 11.10.1999. The High Court addressed a letter to the Government recommending full reimbursement by relaxing the rule, as a special case.

The Government by its order, as is conveyed to the petitioner by letter dated 4.9.2001, sanctioned only Rs. 50,000/- towards medical expenses purporting to be in relaxation of the rules. The petitioner's case is that after he was conveyed the decision of the Government sanctioning only Rs. 50,000/-, being the ceiling limit imposed vide G.O.Ms.No. 184, dated 2.4.1992, he on 28.2.2001 represented for reimbursement of the balance amount of Rs. 70,380/-. This request was forwarded by the High Court with its recommendation for consideration of the Government. The

representation was rejected with the observations that the Government has already sanctioned the maximum ceiling limit of Rs. 50,000/- without imposing 20% cut. Therefore, the claim for amount incurred by the petitioner over and above the ceiling limit is negatived. This action is under challenge in the writ petition to be illegal, arbitrary and also discriminatory.

4. The petitioners have referred to various orders of the Government issued from time to time fixing a ceiling limit on reimbursement of the amount of medical expenses incurred and increase in the said ceiling limits. Reference has also been made to various orders permitting treatment in private recognized hospitals. By G.O.Ms.No. 281, Health, Medical & Family Welfare Department, dated 1.5.1989 ceiling limit of Rs. 40,000/- was imposed, which was enhanced to Rs. 50,000/- by G.O.Ms.No. 184, Health, Medical & Family Welfare Department, dated 2.4.1992. G.O.Ms.No. 161 was issued on 5.1.2000 raising the ceiling limit from Rs. 50,000/- to Rs. 75,000/- and G.O.Ms.No. 58, dated 1.3.2002 raised the ceiling limit from Rs. 75,000/- to Rs. 1,00,000/- for major ailments, such as bypass surgery, kidney transplantation, cancer and neuro surgery applicable only to serving employees and for pensioners the ceiling limit is Rs. 75,000/-. On the basis of the recommendations of the high power committee and suggestion of the Director of Medical Education, the Government issued G.O.Ms.No. 38, Health, Medical & Family Welfare Department, dated 23.1.1996, permitting treatment in certain private hospitals, both within and outside the State both for serving and retired employees. By G.O.Ms.No. 175, Health, Medical & Family Welfare Department, dated 29.5.1997 the Government further clarified that serving and retired employees and their dependents are permitted to secure treatment in private hospitals recognized in Government Orders in emergent situation, when there is no sufficient time to get referral letter. The competent authorities were permitted to sanction reimbursement of the medical expenses after satisfying that the patient was admitted in hospital in serious condition and there was no sufficient time to obtain referral letters. In all such cases of treatment without referral letter, 20% cut is liable to be imposed on the eligible amount after getting the bills scrutinized by the Director of Medical Education. By G.O.Ms.No. 150, Health, Medical & Family Welfare Department, dated 20.5.1998 Care Hospital was also recognized for the purpose of reimbursement of medical expenses for the treatment of serving and retired government employees and their dependents.

5. The petitioner alleged that the Government in cases of several other judicial officers, whether serving or retired, had sanctioned full amounts on several earlier occasions. He cited few cases, viz., Sri P.V. Ranga Reddy, retired District Judge who underwent bypass surgery in Care Hospital. He was sanctioned full expenditure amounting to Rs. 1,06,527/- by G.O.Ms.No. 1216, Law (LA&J. SCF) Department, dated 24.8.2000. Even a judicial officer of the rank of Subordinate Judge (Senior Civil Judge) Sri M. Syamala Rao was sanctioned full amount without any ceiling limit. In case of T. Gopala Krishna Murthy, a retired District Judge who underwent bypass surgery in a private hospital outside the State, the Government sanctioned the full expenditure. The petitioner has also made reference to the A.P. Integrated Medical Attendance Rules, 1972 and the All India Services (Medical Attendance) Rules, 1954 saying that he is also entitled to full reimbursement since the rules nowhere prescribe any ceiling limit for reimbursement. The petitioner has also cited cases of Members of Indian Administrative Service where reimbursement was made in full. In case of M.R. Naik, who underwent bypass surgery in the same Care Hospital, the Government had sanctioned and reimbursed an amount of Rs. 1,22,260/- by G.O.Rt. No. 2281, General Administration (SC.X) Department, dated 21.5.2001. The petitioner then referred to the decision of the Division Bench of this Court in **T. Gopalakrishna Murthi v. State of A.P.,** stating that the Government cannot act according to its own whims and fancies in granting or rejecting the claims. The Government cannot discriminate amongst the employees and has to uniformly apply the rules. Restriction on the claim for medical reimbursement is challenged as discriminatory, arbitrary and contrary to the constitutional mandate.

6 . The State has opposed the writ petitions and is relying on various Government Orders aforementioned thereby justifying its action.

7 . The A.P. Integrated Medical Attendance Rules, 1972 extend to whole of the State of Andhra Pradesh and also apply to persons, who are entitled to medical attendance under the Secretary of State Services (Medical Attendance) Rules, 1938, the All India Services (Medical Attendance) Rules, 1954 and also to the Andhra Pradesh State Higher Judicial Officers who are treated on part with the I.A.S., and I.P.S., Officers, but only to the extent to which they are not inconsistent with these rules. “Government Servant” has been defined to mean, a whole time Government Servant employee under the Government of Andhra Pradesh. “Hospital” has also been defined to mean, the Government Hospital, including any Special Hospital in

the State or any other medical institution recognized by the Government. Definition of “Medical Treatment” in Rule 5 is exhaustive embracing within it all medical and surgical facilities available at the Government Hospital and includes investigations, supply of medicines or therapeutic substances ordinary available in Government Hospitals. It also includes all necessary expenses incurred by a government servant or the members of his family, which has been defined in clause (7) of Rule 3. Rule 6 enumerates the persons who are entitled to free medical treatment. Rule 8 says that the Government servant shall be entitled to free of charge treatment in such government hospitals at or near the place where he falls ill which in the opinion of the authorized medical attendant can provide the necessary and suitable treatment. If there be no such hospital, the government servant is entitled to treatment at or near the place as can in the opinion of the authorized medical attendant provide the necessary and suitable treatment. Rule 9 even permits receiving of treatment by a government servant at his residence and also reimbursement of the cost of treatment at the residence. Rule 10 permits to some extent treatment outside the State but within India. Rule 10-A enable for even treatment for kidney transplantation and coronary By-pass surgery by private hospitals in State. Travelling expenses and medical attendance charges also to the defined extent are reimbursable as provided in Rules 12 and 13 respectively. Treatment under Indian system of medicines is also recognized under Rule 14 for reimbursement. The Rules are elaborate and besides other matters enumerates the extent of the medical facility which can be availed of by the persons entitled thereto and reimbursement of the expenses incurred thereon. There is no Rule or any other provision for limiting the extent of reimbursement. The only provision brought to our notice as regards ceiling limit is Rule 22 for reimbursement of medical treatment when it is availed of outside India.

8 . This being the position of the relevant Rules, we would now make reference to the recommendations of the Shetty Commission on medical facilities to judicial officers. The Shetty Commission report says that the right to health with medical care has been recognized as a fundamental right guaranteed under Article 21 read with Articles 39 (e), 41 and 43 of the Constitution and has so been declared by the Supreme Court in **Consumer Education and Research Centre and others v. Union of India and others.** The Shetty Commission Report after noticing that the medical benefits available to the civil servants have been extended to the judicial

officers, who are governed by the respective rules of the Government, which vary from State to State made the following recommendations:

> "The Judicial Officers in every State be given the medical benefits that are provided to the Members of the respective State Legislatures, subject to certain modifications herein below mentioned:
>
> i. The State Government shall notify the list of Hospitals/Dispensaries, Government and private, in each City/District Headquarters and Taluka places for medical treatment of Judicial Officers and members of their family;
>
> ii. The Judicial Officers shall be entitled to claim expenses incurred by them for the medical attendance and the treatment obtained by them and their family members in such notified Hospitals/Dispensaries.
>
> The expenses shall be inclusive of the charges for accommodation in the place where such treatment is taken.
>
> iii. The Judicial Officers shall be entitled to reimbursement of the expenses incurred by them or for their family members for the medical attendance and treatment obtained by them in any place other than in a hospital or dispensary maintained by the State Government and other than the hospitals and dispensaries notified by the Government, to the same extent as they are entitled to under the rules for reimbursement of expenses incurred by them for medical attendance and treatment obtained in the notified Hospital or Dispensary.
>
> Expenses shall be inclusive of charges for accommodation.
>
> iv. There should not be any restriction on reimbursement except to the extent of in-patient room entitlement. Further, there should not be any ceiling on reimbursement of expenditure on expensive treatments like kidney transplant, open-heart surgery, etc; full reimbursement of actual expenses should be allowed.
>
> v. The Principal District Judge should be notified as the competent authority for passing the bill for reimbursement of medical attendance and expenses of Judicial Officers under him and in case of District Judges, the High Court should be the sanctioning authority.
>
> vi. All claims for reimbursement of the expenses incurred by Judicial Officers for themselves or for their family members should be accompanied by an "Essentiality Certificate" issued by the Authorized Medical Attendant with the bills for reimbursement, supported by the prescription and vouchers or cash memos.
>
> vii. Judicial Officers shall be entitled to advance to meet the medical expenses for treatment up to 80% of the estimate and the balance be paid after approving the bill when it is produced."

9 . I n **All India Judges' Assn. v. Union of India** subject to various

modifications, mentioned in the said judgment all recommendations of the Shetty Commission have been duly accepted and have to govern the field. The accepted recommendation shall govern the cases of judicial officers for reimbursement of medical claims.

10. It deserves to be noticed that right to health, medical aid and care have been recognized as fundamental rights guaranteed under Article 21 read with Article 39 (e) of the Constitution. The Medical Attendance Rules do provide for free of charge medical treatment in government hospitals or recognized private hospitals. In such an event, there is no question of imposing ceiling limit and we see no justifiable reason in the Government imposing any ceiling limit on medical expenses actually incurred by a Judicial Officer for his medical treatment or the medical treatment of his dependents. The cases in hand before us are not such in which the amount claimed is over and above the actual medical expenses incurred. The medical expenses have been duly verified and have been recommended by the competent authority i.e., the High Court, for being reimbursed. Once there is due recommendation by the competent authority, there is no reason not to accept the said recommendation. May be that the Government for its employees might put some restrictions, including ceiling limit but the restriction imposed with respect to judicial officers cannot be held to be legal or valid. There is no justifiable reason in not accepting the recommendation of the High Court in respect of actual medical expenses incurred by the judicial officer. There is no explanation from the respondents as to why in some cases reimbursement was made in full with respect to the actual medical expenses incurred and why the petitioners have not been treated at par by reimbursing the actual amounts incurred by them. In case where the medical expenses are not verified or verifiable, there might be some justification in not reimbursing the same. But once the medical expenses have been duly certified and recommended for sanction, there cannot be any lawful justification in not reimbursing the amounts. 'Medical treatment' in the Medical Attendance Rules define includes therein the use of all medical and surgical facilities, including employment of pathological, bacteriological, radiological or other methods of investigation; supply of medicines, special or ordinary vaccines, sera or other therapeutic substances; refund of cost of preparations which are not medicines but are primarily foods, tonics, etc. Rule 8 enable a Government servant free of charge medical treatment in Government Hospital or other authorized and recognized Private Hospital, on reference being made for the purpose. But there might be some

occasions when the patient is required to be taken to a Government hospital and the Government Hospital is not nearby; in such emergent situation the patient necessarily will have to be taken to a hospital recognized by the Government without reference or some other hospital. In such like situation, imposition of 20% cut in the costs incurred might be justifiable. Justifiability might be because of the difference of the amount of equivalent medical expenses with the medical expenses likely to be incurred in the government hospital. But to say that there should be a ceiling limit even on the amount actually incurred would be nothing but denying the free medical facility. Once medical facility is made available to Judicial Officers, it has to be made available in full so that its actual benefit can be availed of by the persons concerned. It is more so in view of the acceptance of the recommendations of the Shetty Commission.

11. For the reasons aforementioned, the action of the respondents in imposing a ceiling limit on the actual medical expenses incurred by the Judicial Officers cannot be sustained and the orders impugned are liable to be quashed.

12. Accordingly, the writ petitions are allowed. Orders impugned in each of the writ petitions are set aside. Respondents are directed to take appropriate decision in the light of the aforementioned observations within a period of three months from today for reimbursing the balance of medical expenses and to reimburse the same within a period of one month thereafter. There will be no order as to costs.

_____

7th December 2004.

Sarfraz.

Fair Copy to the Hon'ble Sri Devinder Gupta, The Chief Justice

Fair copy to the Hon'ble Sri Justice C.V.Ramulu

To

1 The Secretary, Govt. of A.P., Legislative Affairs and Justice
Law (LA&J Courts) Department, Secretariat, Hyderabad.
2 The Director, Medical Education,
A.P, Koti, Hyderabad.
3 The Registrar (Administration), High Court of A.P.,

High Court buildings, Hyderabad. A.P.

4 The Prl. Secretary, State of A.P., Health , Medical & Family Welfare

(K-1) Department , Secretariat ,Hyderabad.
5 The Secretary, State of A.P.,
Law (LA & J - CTS .C) Department , Secretariat ,
Hyderabad.
6 The Chief Secretary, Govt. of A.P.
Secretariat , Hyderabad.
7 The Secretary, State of A.P Finance & Planning Department
Government of A.P., Hyderabad.

8 8 L.R. Copies

9 Under-Secretary, Ministry of Law, Justice and Company Affairs,

Union of India, New Delhi.

10 President, High Court Bar Association, High Court Buildings,

Hyderabad.

11 2CCs to G.P. for Home, High Court buildings, Hyderabad.(O.U.T)

12 2CD copies